

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Tamara Scalera,

Complainant,

vs.

Charles Faccini dba Red & White Moving
(CAL T-107563),

Defendant.

Case 04-12-010
(Filed December 20, 2004)

ADMINISTRATIVE LAW JUDGE'S RULING

On December 20, 2004, Tamara Scalera (Complainant) filed this complaint against Charles Faccini dba Red & White Moving (Defendant), seeking damages in the amount of \$10,000 for replacement of her television set, and related costs. Complainant relies on General Order (GO) 136-C as the basis for Commission jurisdiction to adjudicate this matter.

I believe Complainant's reliance on GO 136-C is misplaced. While the Commission attempts to resolve disputes between shippers and household goods carriers, the Commission has no jurisdiction to award damages in such matters. GO 136-C simply sets forth the insurance requirements that shippers

must comply with in order to obtain a Commission license to operate as a mover of household goods.¹

Furthermore, the Commission expressly notifies the customer in its information pamphlet that:

“The PUC has no authority to compel carriers to settle claims for loss or damage and will not undertake to determine whether the basis for, or the amount of such claims is proper, nor will it attempt to determine the carrier’s liability for such loss or damage. If both you and the carrier consent, the claim may be submitted to an impartial arbitrator for resolution. You may also commence a suite in small claims court or other court of law. If arbitration or civil action result in a decision in your favor and the carrier fails to comply, contact the PUC.” (At p. 10.)

Based on the complaint, it appears that (1) Defendant has insurance that meets the GO requirements for household goods carriers, (2) Defendant has offered to settle this matter for \$7,000 (complaint Attachment 17), and (3) this matter is pending before the Superior Court for the County of Sonoma.

¹ The Commission is the agency responsible for regulating the intrastate transportation of used household goods, personal effects and furniture, pursuant to Article XII of the California Constitution, the Household Goods Carriers Act (Act) (Pub. Util. Code §§ 5101 *et seq.*), the Commission’s Maximum Rate Tariff 4 (MAX-4), and Commission GOs 100-M, 136-C, 142, and others. These statutes and regulations require, among other things, that household goods carriers operate only in a responsible manner in the public interest; procure, continue in effect, and maintain on file adequate proof of public liability/property damage, cargo, and workers’ compensation insurance; and observe rules and regulations governing: (1) acknowledging and handling claims for loss and damage, (2) issuing estimates, (3) executing and issuing documents, (4) training and supervising employees, (5) maintaining equipment and facilities, and (6) rates and charges. The Commission is the primary agency responsible for enforcing these and other statutes and regulations governing household goods carriers. These other statutes and regulations include general consumer protection and public safety provisions.

Therefore, **IT IS RULED** that Complainant shall no later than January 28, 2005, advise me by letter why this complaint should not be dismissed for lack of Commission jurisdiction.

Dated January 4, 2005, at San Francisco, California.

/s/ BERTRAM D. PATRICK

Bertram D. Patrick
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling on all parties of record in this proceeding or their attorneys of record.

Dated January 4, 2005, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.